



## Vanuatu

### Country Reports on Human Rights Practices - [2001](#)

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Vanuatu, a small South Pacific island nation that gained independence from Britain and France in 1980, has a parliamentary form of government. The Constitution provides for parliamentary elections based on universal suffrage every 4 years through which citizens may freely change their government. Parliamentary majorities have been unstable. The 52-member Parliament elects the Prime Minister as the Head of the Government and the President, who is the Head of State. The latter's powers largely are ceremonial, except when appointing judges or acting on the advice of the Council of Ministers, who are appointed by the Prime Minister. Political legitimacy is based on majority rule. The courts generally are independent of executive interference.

The civilian authorities control the small police force and its paramilitary wing, the Vanuatu Mobile Force (VMF). The police commissioner commands the entire force, including the VMF.

Subsistence farming and fishing are the principal livelihood for more than 80 percent of the population of approximately 193,000. There is also some production of cash crops including copra and cocoa, as well as cattle farming. The service sector provides most formal employment, primarily in government, tourism, and an offshore financial sector, and represents the largest component of the country's gross domestic product.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas, including poor prison conditions, an extremely slow judicial process, and violence and discrimination against women. A leading newspaper publisher was deported in January based on his political coverage.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

###### b. Disappearance

There were no reports of politically motivated disappearances.

###### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Constitutional provisions prohibit such practices, and there were no reports that government officials employed them.

In November 1999, based on a lack of evidence, the presiding magistrate dismissed the case against 18 police officers charged with the intentional assault of rioters in Port Vila in January 1998. At year's end, the status of the Supreme Court's review was unknown.

Prison conditions were poor. The central prison in Port Vila was dilapidated and not reliably secured. There

were approximately 30 prisoners. The sole female prisoner was held at the barracks for female police officers.

Inmates were treated humanely, to the extent allowed by the meager resources of the prison system. The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. However, in January the Government deported a leading newspaper publisher without notice (See Section 2.a.). A warrant issued by the court is required for an arrest.

The constitutional provision that suspects must be informed of the charges against them and given a speedy hearing before a judge is observed in practice. A system of bail operates effectively and lengthy pretrial detention was not a problem.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice. Judges cannot be removed without cause. There were no reports of interference with the judiciary by the present Government. The judiciary generally provides citizens with a fair judicial process; however, the judiciary is relatively weak and inefficient. Defendants spend extended periods in detention due to judicial inefficiency.

Magistrates' courts deal with most routine legal matters. There is also a Supreme Court, and above the Supreme Court, there is an Appeals Court with three judges, two of whom are appointed by the President and chosen from among Supreme Court judges in other South Pacific nations as required.

The judicial system is based on British law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to a higher court.

Judges, prosecutors, and the police complained about large backlogs of cases in the courts due to a lack of resources and limited numbers of qualified judges and prosecutors. Procedures were changed during 2000 to allow the public prosecutor to present new cases to the magistrates more frequently; however, the procedural changes did not accelerate the prosecutor's action significantly. Years can pass before a case is brought to trial.

The 26 members of the VMF accused of kidnaping public officials in the course of a mutiny in 1996 were released after 3 months of detention; charges against them were dropped. A few of the members were not allowed to remain in the VMF; others continue to serve in the force.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution (or the law) prohibits such actions, and the Government generally respects these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice.

The Government controls much of the country's media, including a weekly newspaper, one AM and one FM radio station, and a limited-service television station whose broadcasts are limited to the capital, Port Vila. The television station provides English and French news service three times weekly. There is one independent

newspaper published semiweekly and another weekly newspaper published by a political party. A new privately owned weekly newspaper, The Presse, began publication during the year.

Throughout the year, most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, in January the Government ordered the deportation of a leading newspaper publisher, Mark Neil-Jones of the Trading Post, on the grounds that he had revealed State secrets in his political coverage of government corruption. The Ombudsman and the leader of the opposition criticized the deportation, and it was overturned by the Acting Chief Justice a week after Neil-Jones was deported. The Acting Chief Justice ordered the Government to allow the publisher to return and resume his business, and he has done so. In addition some individual politicians and their supporters, sensitive to public criticism, at times threatened the media but without any apparent effect on press freedom.

The Government does not limit access to the Internet; however, few citizens can afford computers or access to the Internet.

Academic freedom is respected.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respects these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Missionaries of various Christian denominations work without restriction.

In 1995 in response to concerns expressed by some established churches about the activities of new missionary groups, such as the Holiness Fellowship, Jehovah's Witnesses, and the Church of Jesus Christ of Latter-Day Saints, Parliament passed the Religious Bodies Act, which requires religious organizations to register with the Government. However, the President never signed the act, and it never has been enforced.

A few churches registered with the Government voluntarily, while a few church representatives believe that that the Religious Bodies Act had a chilling effect on new missionary activity. There has been no effort to repeal the act; however, it remains dormant and is not regarded as inhibiting religious practice.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen. There were no refugee cases reported during the year. The Government has no association with the UNHCR. There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may freely change their government. The 52 member Parliament elects the Prime Minister as the Head of Government and the President, who is the Head of State. The President's powers largely are ceremonial except when appointing judges and acting on the advice of the Council of Ministers. Parliamentary majorities have been unstable, with frequent votes of confidence. National elections were held in March 1998, which outside observers considered to have been generally free and fair. A total of 216 candidates contested 52 seats. Voter turnout was 63.6 percent. Following a vote of no confidence in April, Edward Natapei of the Vanua'aku Party assembled a parliamentary majority and formed the Government shortly thereafter.

The percentage of women in government or politics does not reflect accurately their numbers in the population. Traditional attitudes, in which men are dominant and women frequently are limited to customary family roles, hamper women from becoming more active in economic and political life. Six women, including the sole sitting female member, ran for Parliament in 1998; none were elected.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no restrictions on the formation of local human rights organizations. Some nongovernmental organizations (NGO's), such as the National Council of Women and the Family Health Association, include human rights education as part of their programs.

A number of domestic and international human rights groups, such as Transparency International, operate without government restriction; they investigate and publish their findings on human rights cases. Government officials tolerate their views.

An Ombudsman's Act was passed by Parliament in 1998 in the wake of parliamentary anger over vigorous investigations of corruption by the Ombudsman under the previous act. Among other provisions, it requires that members of the Ombudsman's staff be appointed by the Public Service Commission rather than by the Ombudsman and provides that persons interviewed by the Ombudsman may have legal representation present at the interview.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinions, language, or sex; however, women remain victims of discrimination in the tradition-based society.

##### Women

Violence against women, particularly wife beating, is common, although no accurate statistics exist. There are no specific laws against wife beating; courts occasionally prosecute offenders using common law assault as a basis for prosecution. However, most cases of violence against women, including rape, go unreported because women, particularly in rural areas, are ignorant of their rights or fear further abuse. Spousal rape is not a crime and, in addition, police are frequently reluctant to intervene in what are considered to be domestic matters. There are no reported government programs to address domestic violence, and media attention to the abuse is limited.

Prostitution is illegal, and it is not regarded as a problem. Sex tourism is not prohibited specifically, but it is not a problem.

Sexual harassment is a problem; however, it is not prohibited, and it is not a priority for the police and judiciary.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. During 2000 in the course of a downsizing in the public service, a disproportionate number of women's positions were abolished. During 2000 policies to guide the Department of Home Affairs in protecting and furthering the rights of women were being drafted under the Government's reform program; however, they were not completed during the year.

The majority of women enter into marriage through "bride-price payment," a practice that encourages men to view women as property. Women also are inhibited by tradition from owning land, and at least one women's advocate believes this limitation underpins their secondary status. Many female leaders view village chiefs as major obstacles to women attaining social, political, and economic rights. Women interested in running for public office received encouragement and help from an NGO, Vanuatu Women in Politics (VANWIP). Four of the six women who ran for Parliament in the 1998 election were supported by VANWIP.

##### Children

Access to education is limited, and school attendance is not compulsory. Few children advance beyond elementary school. Boys tend to receive more education than girls. A significant portion of the population, perhaps as high as 50 percent, is functionally illiterate.

Medical services are free, and there is a program of immunization; however, the Government has few resources for medical care, particularly in outlying provinces where there are no hospitals.

Child abuse is not extensive; however, the Government has done little to combat the problem. NGO's and law enforcement agencies reported increased complaints of incest and rape of children in recent years although no statistics are available.

Children generally are protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, play an active role in a child's development. As a result, virtually no children are homeless or abandoned.

#### Persons with Disabilities

There is no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. Their protection and care is left to the traditional extended family and to voluntary NGO's. Due to high rates of unemployment, there were few jobs available for persons with disabilities.

Persons with mental illness typically do not receive specialized care; usually they are attended by members of their extended families.

#### National/Racial/Ethnic Minorities

Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally are concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes that inhabit it, and it cannot be sold, although it sometimes is leased to others. However, within the limits of this system of land tenure, there were no reports of discrimination against noncitizens. There is no evidence to suggest a pattern of ethnic discrimination in the provision of the limited basic services that the Government provides.

### Section 6 Worker Rights

#### a. The Right of Association

The law provides workers with the right to organize and join unions. There are no restrictions on this right.

Approximately 25,000 persons participate in the formal economy as wage earners. Combined union membership in the private and public sectors is approximately 1,000. All five existing trade unions are independent of the Government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU).

The high percentage of the population still engaged in subsistence agriculture and fishing precludes extensive union activity. In addition membership in the Vanuatu Public Servants Union fell dramatically following the Government's wholesale dismissal of hundreds of full-time public servants during a protracted general strike in 1994. The Supreme Court in 1994 ruled that the union had not complied with its own rules when it undertook the general strike and declared the strike illegal. Combined union membership in the private and public sectors was approximately 1,000. There were no categories of workers who were not permitted to join unions.

The law prohibits retaliation if a strike is legal. In the case of private-sector employees, violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, the Public Service Commission would handle violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There was no significant strike activity during the year.

Unions may not affiliate with international labor federations without government permission. The VCTU is a member of the International Confederation of Free Trade Unions.

#### b. The Right to Organize and Bargain Collectively

Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrate's court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and

management generally reach agreement on wages without having to refer the matter to arbitration. Complaints of antiunion discrimination are referred to the Commissioner of Labor; however, none were reported during the year. While the law does not require union recognition, once a union is recognized, it prohibits antiunion discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including forced and bonded labor by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assist their parents since most of the population does not participate in the cash economy. The employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, that is, restrictions on employment in the shipping industry and on nighttime employment. The Labor Department effectively enforces these laws.

The country has not ratified ILO Convention 182 on the worst abuses of child labor.

The law prohibits forced and bonded labor by children, and such practices are not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work

A legislated minimum wage is enforced effectively by the Labor Department. Since 1995 it has been a flat rate of approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage does not provide a decent standard of living for an urban worker and family. Most families are not dependent solely on wages for their livelihoods; they supplement their incomes through subsistence farming.

Various laws regulate benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that includes at least one 24-hour rest period. The Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the safety and health law is inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department is insufficient to enforce the law fully. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

There are few foreign workers. Those present in the country were primarily managers, professionals, and entrepreneurs.

f. Trafficking in Persons

The Constitution and the law do not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.